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IN THE SUPREME COURT OF THE STATE OF IDAHO

| | | |
|----------------------------|---|----------------------------|
| STATE OF IDAHO, |) | |
| |) | No. 41513, 41607 |
| Plaintiff-Respondent, |) | |
| |) | Ada Co. Case No. |
| vs. |) | CR-2012-6569, CR-2012-9020 |
| |) | |
| SHIRLEY MARIE STONE-JONES, |) | |
| |) | |
| Defendant-Appellant. |) | |
| _____ |) | |

BRIEF OF RESPONDENT

APPEAL FROM THE DISTRICT COURT OF THE FOURTH JUDICIAL
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE
COUNTY OF ADA

HONORABLE MICHAEL E. WETHERELL, District Judge
HONORABLE TIMOTHY L. HANSEN, District Judge

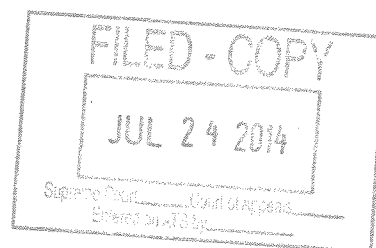
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STATEMENT OF THE CASE

Nature of the Case

Shirley Stone-Jones appeals in Docket No. 41513 from the judgment and sentence entered upon her conditional guilty plea to possession of methamphetamine with the intent to deliver, with a habitual drug offender enhancement. She appeals in Docket No. 41607 from the judgment and sentences entered upon her guilty pleas to possession of methamphetamine and forgery. The cases have been consolidated on appeal.

Statement of Facts and Course of Proceedings In Docket No. 41513

On May 2, 2012, Boise City Police Officer Jim Cromwell received a tip from a known informant that "Stone-Jones was carrying some narcotics on her and was on her way to the Home Depot in Meridian. ... to buy some more." (4/29/13 Tr., p.78, L.21 – p.79, L.4, p.81, L.7 – p.82, L.1.) According to the informant, Stone-Jones was travelling to the Meridian Home Depot from her house on O'Farrell Street in Boise in a black Chevy Blazer. (4/29/13 Tr., p.82, Ls.2-10.) At the time Officer Cromwell received the tip, he was aware that, just a few days earlier, Stone-Jones and the informant had been pulled over in Valley County and, as a result of that stop, Stone-Jones had been arrested for possessing methamphetamine. (4/29/13 Tr., p.77, L.2 – p.81, L.6.)

Acting on the information received from the informant, Officer Cromwell asked other officers to assist him in locating Stone-Jones. (4/29/13 Tr., p.82, L.19 – p.83, L.6.) An undercover narcotics officer, Terry Phillips, went to Stone-Jones' residence on O'Farrell Street but did not see a black Chevy Blazer there.

(4/23/13 Tr., p.102, L.8 – p.105, L.5.) Officer Phillips then drove to the Home Depot store in Meridian. (4/23/13 Tr., p.105, Ls.6-17.) Once there, the officer saw the Chevy Blazer in a nearby Shari's parking lot. (#41513 R., p.135; 4/23/13 Tr., p.105, L.18 – p.106, L.6.) After watching the Blazer for a few minutes, Officer Phillips saw Stone-Jones exit the Blazer from the front passenger side and get into the passenger side of a green Toyota Tercel that had just pulled up. (4/23/13 Tr., p.106, L.6 – p.107, L.1.) For the next several minutes, the Tercel made two or three circles around the parking lot of the shopping complex in which the Home Depot and Shari's were located. (4/23/13 Tr., p.107, L.20 – p.108, L.11.) The Tercel then pulled back into the Shari's parking lot where the Blazer was still parked. (4/23/13 Tr., p.107, Ls.16-19, p.108, Ls.1-3.) At that point, Stone-Jones got out of the Tercel and got back into the Blazer. (4/23/13 Tr., p.108, Ls.1-3.) The Blazer then left the parking lot and got on the eastbound freeway, headed toward Boise. (4/23/13 Tr., p.108, Ls.3-16.)

Officer Phillips followed the Blazer from the Shari's parking lot to a residence on Gowen Road, where the Blazer stayed for 10 to 15 minutes. (#41513 R., p.135; 4/23/13 Tr., p. 108, L.12 – p.109, L.5.) After leaving the Gowen Road residence, the Blazer got back on the freeway, headed toward the inbound connector. (4/23/13 Tr., p.109, Ls.6-10.) The officer again followed the Blazer and observed the driver commit multiple traffic infractions. (#41513 R., p.135; 4/23/13 Tr., p.109, L.17 – p.111, L.11.) Officer Phillips relayed his observations to Officer Cromwell, who then started following the Blazer in a marked patrol car. (#41513 R., p.135; 4/23/13 Tr., p.109, Ls.11-16, p.111, L.11

– p.112, L.6, p.112, L.25 – p.113, L.3; 4/29/13 Tr., p.84, Ls.3-13.) After observing the driver of the Blazer commit another traffic infraction, Officer Cromwell effectuated a traffic stop. (#41513 R., p.135; 4/23/13 Tr., p.112, Ls.7-10; 4/29/13 Tr., p.84, L.14 – p.85, L.5, p.121, Ls.1-21.) Boise Police Officer Steven Martinez and K-9 Officer Kelly Montoya also responded and assisted with the stop. (#41513 R., pp.135-36; 4/23/13 Tr., p.76, L.22 – p.77, L.5, p.112, L.18 – p.113, L.7; 4/29/13 Tr., p.7, L.20 – p.8, L.12, p.50, L.22 – p.51, L.15, p.61, Ls.13-16, p.121, L.22 – p.122, L.4.)

Officer Cromwell approached the Blazer and made contact with the driver, who was identified as Chris McLellen.¹ (4/29/13 Tr., p.85, Ls.19-22.) Although the temperature outside was only “in the 50s,” McLellen “had beads of sweat on his forehead” and his head and hands were shaking, “almost like tremors.” (#41513 R., pp.135-36; 4/29/13 Tr., p.85, L.19 – p.86, L.14.) Suspecting McLellen might be under the influence of methamphetamine or some other stimulant, Officer Cromwell called for assistance from Officer Robert Gibson, a “night STEP officer[] who specializes in DUIs.” (#41513 R., p.136; 4/29/13 Tr., p.86, L.15 – p.87, L.21, p.89, L.6 – p.90, L.16, p.91, Ls.17-20.) Before Officer Gibson arrived, Officer Cromwell asked McLellen to step out of the vehicle. (4/29/13 Tr., p.91, Ls.21-25.) As McLellen stepped out of the Blazer, Officer

¹ McLellen’s name is spelled differently at various parts of the record and transcripts. For purposes of this brief, the state adopts the spelling that, as noted by defense counsel below, appears in the police reports pertaining the May 2, 2012 traffic stop. (See 4/23/13 Tr., p.17, Ls.14-24; PSI, pp.27-30.)

Cromwell observed a large bulge in McLellen's pocket. (4/29/13 Tr., p.92, Ls.1-9.) McLellen told the officer the bulge "was money." (4/29/13 Tr., p.92, Ls.10-13.) With McLellen's permission, Officer Cromwell reached into McLellen's pocket and pulled out a roll of \$1400.00 in cash, an amount the officer knew to be consistent with the approximate price of one ounce of methamphetamine. (4/29/13 Tr., p.92, L.14 – p.93, L.25.)

While Officer Cromwell was speaking to McLellen, Officer Martinez approached the passenger side of the Blazer, made contact with Stone-Jones, and asked her to step out of the vehicle. (#41513 R., p.136; 4/29/13 Tr., p.9, L.3 – p.10, L.1.) Stone-Jones complied and exited the vehicle carrying her purse. (#41513 R., p.136; 4/29/13 Tr., p.10, L.2 – p.11, L.7.)

After Stone-Jones and McLellen were both out of the vehicle, and while officers were still waiting for DUI Officer Gibson to arrive, Officer Montoya walked his drug detection dog, Jax, around the Blazer. (#41513 R., p.136; 4/29/13 Tr., p.19, L.25 – p.20, L.13, p.52, L.12 – p.53, L.7, p.94, Ls.1-6.) Jax twice alerted on the front bumper. (#41513 R., p.136; 4/29/13 Tr., p.53, Ls.8-14.) Officers Montoya and Cromwell searched the interior of the Blazer but did not find any drugs. (#41513 R., p.136; 4/29/13 Tr., p.53, Ls.15-19, p.94, Ls.16-25.)

Shortly after officers searched the Blazer, DUI Officer Gibson arrived on scene and administered a number of field sobriety tests (FSTs) to McLellen. (#41513 R., p.136; 4/23/13 Tr., p.76, L.18 – p.84, L.14; 4/29/13 Tr., p.16, Ls.4-15.) Stone-Jones sat on the on the sidewalk curb while McLellen performed the FSTs. (4/23/13 Tr., p.85, Ls.6-15.) Ultimately, Officer Gibson determined

McLellen was not under the influence of any drugs or alcohol and he had McLellen sit on the sidewalk curb, next to Stone-Jones. (#41513 R., p.136; 4/23/13 Tr., p.84, L.15 – p.85, L.15.)

At approximately the same time Officer Gibson completed his DUI investigation of McLellen, Officer Cromwell asked Stone-Jones to step away from the curb so he could speak to her. (#41513 R., p.136; 4/29/13 Tr., p.21, L.5 – p.22, L.16, p.95, L.15 – p.96, L.11.) As Stone-Jones stood up, the officer noted she still had her purse with her, and it appeared to the officer to be full. (4/29/13 Tr., p.96, L.17 – p.97, L.14.) Concerned that the purse might contain a weapon, Officer Cromwell gave Stone-Jones two options: either leave the purse where she had been seated or allow the officer to search the purse for weapons. (#41513 R., p.136; 4/29/13 Tr., p.97, L.15 – p.98, L.15.) Stone-Jones opted to leave the purse behind while she talked to the officer, and she told McLellen to “babysit” it for her. (#41513 R., p.136; 4/29/13 Tr., p.22, L.17 – p.24, L.19, p.99, Ls.12-22, p.100, Ls.4-14.)

While Officer Cromwell was speaking to Stone-Jones, Officer Montoya had Jax conduct an area sniff of the sidewalk where McLellen and Stone-Jones’ purse were sitting. (#41513 R., p.136; 4/29/13 Tr., p.54, L.18 – p.55, L.8.) Jax alerted on the purse, which was sitting on the ground. (#41513 R., p.136; 4/29/13 Tr., p.54, L.18 – p.55, L.1, p.56, L.16 – p.57, L.10.) Officer Cromwell thereafter asked Stone-Jones for consent to search the purse, but Stone-Jones declined. (#41513 R., p.136; 4/29/13 Tr., p.101, L.12 – p.102, L.4.) The officer then explained to Stone-Jones that she could either consent to a search of her

purse or the officers would seize the purse and apply for a search warrant. (#41513 R., p.136; 4/29/13 Tr., p.102, L.5 – p.103, L.21.) Stone-Jones chose the latter option and told Officer Cromwell to “just take” the purse. (#41513 R., p.136; 4/29/13 Tr., p.103, Ls.22-24.) The detention ended at that point and Stone-Jones and McLellen left in McLellen’s vehicle. (#41513 R., p.136; 4/29/13 Tr., p.103, L.25 – p.104, L.16.)

The next day, Officer Cromwell applied for and obtained a warrant to search Stone-Jones’ purse. (#41513 R., p.136; 4/29/13 Tr., p.104, L.17 – p.105, L.24.) The officer searched the purse and found several baggies of methamphetamine, scales, cash, a “pay/owe” sheet, and drug paraphernalia. (#41513 R., pp.136-37; 4/29/13 Tr., p.105, L.25 – p.106, L.24; PSI, p.33².)

The state charged Stone-Jones with possession of methamphetamine with the intent to deliver, possession of drug paraphernalia, and a habitual drug offender enhancement. (#41513 R., pp.38-39, 53-54, 147-50.) Stone-Jones filed a motion to suppress, arguing, *inter alia*, that the evidence against her was the fruit of an unlawfully extended traffic stop. (#41513 R., pp.65-78.) The district court denied the motion, ruling the length of the stop was constitutionally reasonable. (#41513 R., pp.135-42.) Stone-Jones thereafter entered a conditional guilty plea to possessing methamphetamine with the intent to deliver and being a habitual drug offender, specifically reserving the right to appeal the denial of her suppression motion. (#41513 R., pp.151-59.) The district court

² PSI page numbers correspond with the page numbers of the electronic file “Stone-JonesPSI.pdf.”

accepted Stone-Jones' plea and imposed a unified sentence of 25 years, with three years fixed. (#41513 R., pp.170-74.) Stone-Jones timely appealed. (#41513 R., pp.178-81.)

Statement of Facts and Course of Proceedings in Docket 41607

While Stone-Jones was out on bond in Docket 41513, officers executed a search warrant at her residence and found in her bedroom a cache of contraband that included methamphetamine, glass pipes, used syringes, glass vials, zip lock baggies, a digital scale, several color copies of a \$100 bill, and a computer and printer, on top of which was a counterfeit \$100 bill. (PSI, pp.4-5, 53, 56-57.) The state charged Stone-Jones with possession of methamphetamine, forgery, possession of drug paraphernalia, and a habitual drug offender enhancement. (#41607 R., pp.28-29, 37-38.) Pursuant to a plea agreement, Stone-Jones pled guilty to possessing methamphetamine and forgery, and the state dismissed the paraphernalia charge and the enhancement. (#41607 R., p.67; 8/15/13 Tr., p.5, L.9 – p.28, L.1.) The district court imposed a unified sentence of seven years, with four years fixed, on the possession count, and a concurrent unified sentence of 14 years, with four years fixed, on the forgery count, and it ordered the sentences to run concurrently with Stone-Jones' sentence in Docket 41513. (#41607 R., pp.70-74.) Stone-Jones timely appealed. (#41607 R., pp.78-80.)

ISSUES

Stone-Jones states the issues on appeal as:

1. Did the district court err when it denied Ms. Stone-Jones's motion to suppress?
2. Did the district court abuse its discretion when it imposed concurrent, unified sentences of twenty-five years, with three years fixed; seven years, with four years fixed; and fourteen years, with four years fixed, following Ms. Stone-Jones's pleas of guilty to possession of a controlled substance with the intent to deliver, possession of a controlled substance, and forgery?

(Appellant's brief, p.8.)

The state rephrases the issues as:

1. Has Stone-Jones failed to show error in the denial of her motion to suppress?
2. Has Stone-Jones failed to show her sentences are excessive under any reasonable view of the facts?

ARGUMENT

I.

Stone-Jones Has Failed To Show Error In The Denial Of Her Motion To Suppress

A. Introduction

Stone-Jones challenges the denial of her suppression motion in Docket No. 41513, arguing as she did below that the evidence against her was the fruit of an unlawfully prolonged detention. (Appellant's brief, pp.9-15.) Stone-Jones' argument fails. Correct application of the law to the undisputed facts supports the district court's determination that the length of the detention was constitutionally reasonable.

B. Standard Of Review

On review of a ruling on a motion to suppress, the appellate court defers to the trial court's findings of fact unless clearly erroneous but exercises free review of the trial court's determination as to whether constitutional standards have been satisfied in light of the facts. State v. Bishop, 146 Idaho 804, 810, 203 P.3d 1203, 1209 (2009); State v. Henage, 143 Idaho 655, 658, 152 P.3d 16, 19 (2007).

C. The Length Of The Detention Was Constitutionally Reasonable

It is well-settled that the stop of a vehicle constitutes an investigative detention subject to Fourth Amendment requirements and is "analyzed under the principles set forth in *Terry v. Ohio*, 392 U.S. 1, 88 S.Ct. 1868, 20 L.Ed.2d 889 (1968)." State v. Grantham, 146 Idaho 490, 496, 198 P.3d 128, 134 (Ct. App.

2008) (citations omitted). Under Terry, an investigative detention must be supported by reasonable articulable suspicion that criminal activity is underway. State v. Gallegos, 120 Idaho 894, 896, 821 P.2d 949, 951 (1991). The “reasonable suspicion” standard is an objective test that is satisfied if law enforcement can articulate specific facts which, along with the reasonable inferences from those facts, justify the suspicion that the person detained is or has been involved in criminal activity. State v. Nickerson, 132 Idaho 406, 408, 973 P.2d 758, 760 (Ct. App. 1999). Reasonable suspicion is a less demanding standard than probable cause. Gallegos, 120 Idaho at 896, 821 P.2d at 951. Whether the officer had the requisite reasonable suspicion to detain a citizen is determined on the basis of the totality of the circumstances. State v. Van Dorne, 139 Idaho 961, 964, 88 P.3d 780, 783 (Ct. App. 2004).

“An investigative detention must be temporary and last no longer than necessary to effectuate the purpose of the stop.” Grantham, 146 Idaho at 496, 198 P.3d at 134 (citations omitted). “There is no rigid time limit for determining when a detention has lasted longer than necessary; rather, a court must consider the scope of the detention and the law enforcement purposes to be served, as well as the duration of the stop.” Id. The court must also consider whether the officer’s observations during the encounter “and events succeeding the stop” gave rise to “legitimate reasons for particularized lines of inquiry and further investigation” which justified expanding the investigation to other possible crimes. Id.; see also State v. Brumfield, 136 Idaho 913, 916, 42 P.3d 706, 709 (Ct. App. 2001).

In this case, Stone-Jones does not challenge the constitutionality of the initial traffic stop of the vehicle in which she was a passenger, the search of the vehicle following the alert by the drug dog, or the DUI investigation of the driver, Chris McLellen. (See generally Appellant's brief, pp.9-15.) She contends, however, that once McLellen passed the FSTs,

the purpose of the stop was accomplished. At that point, Officer Cromwell should have let them both go. Instead, his questioning, and Jax's dog sniff [of Stone-Jones' purse], impermissibly extended the detention. The drug investigation was over once the vehicle had been searched. The DUI investigation was over once Mr. McQuellan [sic] passed the field sobriety tests. At that point, any further questioning was unconstitutional.

(Appellant's brief, p.14.) Stone-Jones' argument is without merit. Despite her conclusory assertions to the contrary, the undisputed facts of this case show that, even after the vehicle was searched and McLellen passed the FSTs, officers continued to have an objectively reasonable basis to suspect Stone-Jones and McLellen were involved in illegal drug activity. That officers continued to investigate that possible illegal activity by briefly questioning Stone-Jones and, at the same time, having the drug dog sniff the area where Stone-Jones left her purse, did not unlawfully extend the detention. See Grantham, 146 Idaho at 496-97, 198 P.3d at 134-35 (officer justified in expanding scope of traffic stop where occupants of vehicle exhibited physical signs of methamphetamine use); Brumfield, 136 Idaho at 917, 42 P.3d at 710 (lengthening of traffic stop to wait for arrival of drug dog not unlawful where officers had reasonable suspicion of drug crime).

It is undisputed that officers stopped the vehicle in which Stone-Jones was a passenger after: (1) learning from another law enforcement agent that Stone-Jones had recently been arrested for possessing methamphetamine (4/29/13 Tr., p.77, L.2 – p.81, L.6); (2) receiving information from a known informant that Stone-Jones would be involved in illegal narcotics activity at the Home Depot in Meridian that evening (4/29/13 Tr., p.78, L.21 – p.79, L.4, p.81, L.7 – p.82, L.10); (3) observing Stone-Jones and the driver of the vehicle engage in suspicious activity in the parking lot of the complex in which the Home Depot was located (#41513 R., p.135); and (4) observing the driver of the vehicle commit multiple traffic infractions (#41513 R., p.135). Considered in their totality, these facts were alone sufficient to supply the officers with reasonable suspicion that Stone-Jones and McLellen may be involved in illegal drug activity. See State v. Widner, 155 Idaho 840, 317 P.3d 737 (Ct. App. 2013) (review denied) (traffic stop based on suspicion of illegal drug activity justified where officers knew defendant had previously sold marijuana, received a tip that defendant would be traveling at a particular time and place in a particular vehicle to purchase more marijuana, and independently verified some of the details of the tip). That suspicion was only heightened when, during the traffic stop, McLellen displayed physical signs – sweating and tremors – that led officer Cromwell to suspect he was under the influence of methamphetamine or some other stimulant. (#41513 R., pp.135-36; 4/29/13 Tr., p.85, L.19 – p.87, L.21.) Also adding to the suspicion of illegal drug activity were the facts that a drug dog alerted on the exterior of the vehicle and McLellen had in his possession a “roll”

of \$1400.00 cash – an amount Officer Cromwell knew from his training and experience to be the approximate price of one ounce of methamphetamine. (#41513 R., p.136; 4/29/13 Tr., p.92, L.14 – p.93, L.25.)

Considered in their totality, the above facts clearly gave the officers reasonable suspicion to expand the scope of the traffic stop for the purpose of investigating whether Stone-Jones and McLellen were involved in drug-related activities. Grantham, 146 Idaho at 496-97, 198 P.3d at 134-35; Brumfield, 136 Idaho at 917, 42 P.3d at 710. Stone-Jones appears to concede this point but argues that, once the officers searched the vehicle and found no drugs in it, “[t]he drug investigation was over.” (Appellant’s brief, p.14.) Stone-Jones is incorrect. While the absence of drugs in the vehicle following the dog alert is certainly a factor to consider in determining whether officers were justified in continuing their investigation, that fact alone does not overcome the other information that gave officers reason to suspect that Stone-Jones and McLellen might not only possess and/or be using drugs, but might also have recently bought and/or sold drugs as well. Compare State v. Anderson, 154 Idaho 703, 302 P.3d 328 (2012) (probable cause established by dog alert on exterior of vehicle did not dissipate merely because dog did not also alert inside the vehicle where additional circumstances known to officers added to the probable cause determination).

Again, before they even effectuated the traffic stop, officers in this case knew that Stone-Jones had recently been arrested for possessing methamphetamine, and they had received a tip that Stone-Jones would be

engaging in a drug transaction in the parking lot of the Meridian Home Depot that evening. (#41513 R., p.135; 4/29/13 Tr., p.77, L.2 – p.82, L.10.) An officer independently corroborated the tip when he observed Stone-Jones and McLellen engage in suspicious activity in the Home Depot complex parking lot. (#41513 R., p.135.) When McLellen and Stone-Jones left the parking lot, the officer followed them to a residence on Gowen Road, where they stayed for only 15 minutes before heading toward downtown Boise. (#41513 R., p.135; 4/23/13 Tr., p.108, L.12 – p.109, L.10.) When officers did make contact with Stone-Jones and McLellen, a drug dog alerted on the vehicle and McLellen had a “roll” of \$1400.00 cash in his pocket, an amount that happened to correspond with the approximate price of one ounce of methamphetamine. (#41513 R., p.136; 4/29/13 Tr., p.92, L.14 – p.93, L.25.) Collectively, these facts could reasonably lead officers to suspect that Stone-Jones and McLellen had engaged in an illegal drug transaction at the Home Depot parking lot. This suspicion was not dispelled merely because officers did not find any drugs in the vehicle. Indeed, given all the circumstances, it was reasonable to suspect that Stone-Jones and McLellen sold any methamphetamine they had in the vehicle at either the Home Depot parking lot or the Gowen Road residence, or, alternatively, that Stone-Jones was concealing the methamphetamine in the purse she carried with her when she exited the vehicle. Either way, the information confronting the officers was sufficient to supply them with reasonable suspicion justifying an extension of the traffic stop for the purpose of continuing their drug investigation.

The district court found, based on the totality of the circumstances, that officers did not unjustifiably prolong the traffic stop by questioning Stone-Jones and, at the same time, having the drug dog sniff the area where her purse was located. This determination is supported by the record, which shows that the information available to the officers before the traffic stop, combined with the officers' observations, general inquiries, and events following the stop, gave rise to legitimate reasons for further investigation into suspected drug activity. Grantham, 146 Idaho at 496-97, 198 P.3d at 134-35; Brumfield, 136 Idaho at 917, 42 P.3d at 710. Stone-Jones has failed to establish any basis for reversal of the district court's order denying her motion to suppress.

II.

Stone-Jones Has Failed To Show An Abuse Of Sentencing Discretion

A. Introduction

After Stone-Jones pled guilty to possessing methamphetamine with the intent to deliver and a habitual drug offender enhancement in Docket 41513 and to possessing methamphetamine and forgery in Docket 41607, the district court imposed concurrent unified sentences of 25 years, with three years fixed; seven years, with four years fixed; and 14 years, with four years fixed, respectively. (#41513 R., pp.170-74; #41607 R., pp.70-74.) Stone-Jones challenges her sentences on appeal, arguing the district court did not "adequately consider[]" several factors she claims are mitigating. (Appellant's brief, pp.15-23.) The record, however, supports the sentences imposed; Stone-Jones has failed to establish an abuse of discretion.

B. Standard Of Review

When a sentence is within statutory limits, the appellate court will review only for an abuse of discretion. State v. Farwell, 144 Idaho 732, 736, 170 P.3d 397, 401 (2007). The appellant bears the burden of demonstrating that the sentencing court abused its discretion. Id.

C. Stone-Jones Has Failed To Show Her Sentences Are Excessive Under Any Reasonable View Of The Facts

Where a sentence is within statutory limits, the appellant bears the burden of demonstrating that it is a clear abuse of discretion. State v. Baker, 136 Idaho 576, 577, 38 P.3d 614, 615 (2001) (citing State v. Lundquist, 134 Idaho 831, 11 P.3d 27 (2000)). To carry this burden the appellant must show that the sentence is excessive under any reasonable view of the facts. Baker, 136 Idaho at 577, 38 P.3d at 615. A sentence is reasonable if it appears necessary to achieve the primary objective of protecting society or any of the related sentencing goals of deterrence, rehabilitation or retribution. Id.

"[T]he most fundamental requirement [of sentencing] is reasonableness." State v. Miller, 151 Idaho 828, 834, 264 P.3d 935, 941 (2011) (quotations and citation omitted). "When reviewing the reasonableness of a sentence this Court will make an independent examination of the record, having regard to the nature of the offense, the character of the offender and the protection of the public interest." Id. Contrary to Stone-Jones' arguments on appeal, an examination of the record in this case shows her sentences are eminently reasonable.

Stone-Jones' criminal record spans over a decade and consists primarily of drug, theft, and driving related offenses. (PSI, pp.6-10, 347-49.) Her convictions in these consolidated cases – for possession of methamphetamine with the intent to deliver, possession of methamphetamine and forgery – constituted her second, third and fourth felony convictions, with her first felony conviction having also been for possessing methamphetamine, in 2003. (PSI, pp.6, 9-10, 345-47.) She has misdemeanor convictions for fraud – insufficient funds checks (two counts), petit theft (“Reduced from felony”), inattentive driving (amended from reckless driving), failure to purchase a driver’s license (two counts); driving under the influence, failure to provide insurance (two counts), operating an unregistered vehicle, providing false information to and officer, public nuisance, and driving without privileges (three counts). (PSI, pp.7-9, 348.) She was also awaiting sentencing on another felony possession of methamphetamine charge when she was sentenced in these cases. (PSI, p.9.)

While there is no question that Stone-Jones has substance abuse and mental health issues that have contributed to her convictions, there is equally little question that Stone-Jones has been afforded numerous opportunities for treatment of those issues but has been unable achieve any sustained period of sobriety or ability to conform her behavior to the law. (PSI, pp.6, 10, 15-22, 75-84, 191-98, 353.) She has been placed on probation numerous times, was afforded the opportunities of both drug court and a rider, and has served a prison sentence. (PSI, pp.6-10, 17-18, 22, 348.) Despite these prior legal sanctions, and the rehabilitative programming associated with them, Stone-Jones has been

neither rehabilitated nor deterred from committing new crimes. Perhaps there is no better evidence of this than the fact that, within a week of being arrested for possessing methamphetamine in Valley County, Stone-Jones acted as the middleman in a methamphetamine sale and was arrested in Docket 41513 for possessing methamphetamine with the intent to deliver and possessing drug paraphernalia; just one month later, she was arrested in Docket 41607 after officers searched her house and found, among other things, methamphetamine, drug paraphernalia and counterfeit money. (PSI, pp.4-6, 9-10.) Given Stone-Jones' tenaciousness in continuing to engage in illegal drug and theft related activities, even when already facing significant legal penalties, the district courts acted well within their discretion in concluding that a substantial prison sentence was not only warranted, but necessary both to protect society and to provide Stone-Jones with any meaningful chance for long-term rehabilitation.

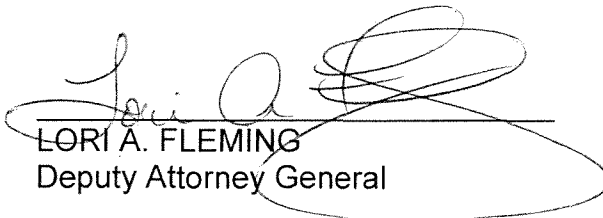
On appeal, Stone-Jones does not dispute any of the information in the PSI or contend that the district courts failed apply the correct legal standards or exercise reason in their sentencing decisions. She argues, however, that the courts failed to "adequately consider[]" several factors she deems mitigating, including what she characterizes as her "incredibly abusive childhood," "long-term drug abuse" and "significant mental health issues," willingness to "help herself" by engaging in treatment, and progress in therapy. (Appellant's brief, pp.15-23.) All of the factors Stone-Jones cites were before the courts at the time of sentencing; that Stone-Jones believes the courts should have weighed this information differently does not establish an abuse of discretion. Moreover,

although the judges in both cases indicated they were aware of and had considered the mitigating and aggravating factors (see 9/19/13 Tr., p.222, L.23 – p.232, L.6; 11/6/13 Tr., p.26, Ls.8-16), the district court in Docket 41513 specifically articulated its consideration of the factors Stone-Jones identifies on appeal and its reasons for not elevating those factors above the needs to protect society and afford Stone-Jones a significant period of structured rehabilitation (9/119/13 Tr., p.222, L.23 – p.235, L.22). Because the court's reasoning applies equally to the sentencing determinations in both cases, the state hereby adopts that reasoning, as set forth in the attached excerpt of the sentencing hearing in Docket 41513 (Appendix A), and submits based thereon that Stone-Jones has failed to establish an abuse of the courts' sentencing discretion.

CONCLUSION

The state respectfully requests that this Court affirm the judgments and sentences in Docket Nos. 41513 and 41607.

DATED this 24th day of July 2014.

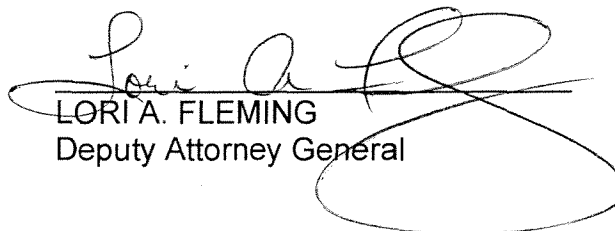

LORI A. FLEMING
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 24th day of July 2014, served a true and correct copy of the attached BRIEF OF RESPONDENT by causing a copy addressed to:

REED P. ANDERSON
DEPUTY STATE APPELLATE PUBLIC DEFENDER

to be placed in The State Appellate Public Defender's basket located in the Idaho Supreme Court Clerk's office.


LORI A. FLEMING
Deputy Attorney General

LAF/pm

Appendix A

03:48PM 1 up a lot of negative things about me, there are a
 03:48PM 2 lot of positive things about me, too. I -- I'm
 03:48PM 3 very proud of myself. I am very proud of myself.
 03:48PM 4 I do not feel that I'm a menace. I am a
 03:48PM 5 productive part of society. That is all I have.

03:48PM 6 THE COURT: Okay. Thank you.

03:48PM 7 Counsel, before inquiring if there is
 03:48PM 8 any legal cause as to why sentence could not be
 03:48PM 9 imposed, one question that I have had and
 03:48PM 10 unfortunately the presentence materials don't do
 03:48PM 11 much to address it: It appears at page nine of
 03:48PM 12 the presentence materials near the bottom that
 03:48PM 13 there is a pending felony possession of a
 03:48PM 14 controlled substance charge out of Valley County.
 03:48PM 15 In this situation, is there any information that
 03:48PM 16 either the State or the defense has as to the
 03:48PM 17 status of that case?

03:48PM 18 MR. WOLLEN: I think I can speak to that,
 03:48PM 19 Your Honor. I've been in communication with
 03:48PM 20 Ms. Reilly, who is the prosecutor in
 03:48PM 21 Judge Wetherell's case, and she has spoken with
 03:48PM 22 the Valley County deputy prosecutor. It's my
 03:48PM 23 understanding that there's going to be an offer made
 03:48PM 24 to have her plead guilty to simple possession of
 03:48PM 25 methamphetamine in that case, and it would be a

03:48PM 1 concurrent sentence. I don't believe they are
 03:48PM 2 seeking a great deal of time as far as fixed time
 03:48PM 3 on her. But Ms. Stone-Jones has not been up to
 03:48PM 4 Valley County to even address the warrant at this
 03:50PM 5 point, so she would have to handle that down the
 03:50PM 6 road.

03:50PM 7 THE COURT: Okay. Thank you.

03:50PM 8 MS. LONGHURST: And, Judge, I just want to
 03:50PM 9 clarify: That part of the plea agreement was I
 03:50PM 10 wouldn't pursue charges. That's not the same
 03:50PM 11 thing. There were charges after she was released
 03:50PM 12 and the purse was searched and when they arrested
 03:50PM 13 her. There was methamphetamine found. That is
 03:50PM 14 what that referred to, not the Valley County
 03:50PM 15 matter.

03:50PM 16 MR. WOLLEN: And that was our understanding
 03:50PM 17 as well, Your Honor.

03:50PM 18 THE COURT: Okay. Thank you. Counsel,
 03:50PM 19 then, with that clarification, is there any legal
 03:50PM 20 reasons as to why sentence could not be imposed?

03:50PM 21 MS. LONGHURST: No, sir.

03:50PM 22 MR. WOLLEN: No, Your Honor.

03:50PM 23 THE COURT: In this case, I have considered
 03:50PM 24 the arguments by the State as well as the defense,
 03:50PM 25 and I have certainly considered Ms. Stone-Jones'

03:50PM 1 statement to the Court. In this situation, again,
 03:50PM 2 the Court certainly acknowledges the State's
 03:50PM 3 frustration and concern. Given the background of
 03:50PM 4 this case and the companion case currently
 03:50PM 5 scheduled for sentencing in front of Judge
 03:51PM 6 Wetherell and the issues that have been raised,
 03:51PM 7 especially in my case, with the charge of
 03:51PM 8 possession with the intent to deliver.

03:51PM 9 Nonetheless, I am inclined to agree to
 03:51PM 10 some extent with Mr. Wollen that from the
 03:51PM 11 information available to the Court, it does appear
 03:51PM 12 that, in fact, Ms. Stone-Jones, although to some
 03:51PM 13 extent supporting herself with the sale of
 03:51PM 14 controlled substances, primarily was using the
 03:51PM 15 sale of controlled substances to support her
 03:51PM 16 habit.

03:51PM 17 Nonetheless, there is significant
 03:51PM 18 concern about that conduct on the part of the
 03:51PM 19 Court, and also concern in this situation about
 03:51PM 20 the prior record and the other information that
 03:51PM 21 this Court has considered in making its sentencing
 03:51PM 22 decision.

03:51PM 23 I'm not going to belabor the facts of
 03:52PM 24 the case. There was a suppression hearing that
 03:52PM 25 was held. I think ample evidence has been offered

03:52PM 1 as to the background of the case, what happened in
 03:52PM 2 terms of the search that was conducted. Again, as
 03:52PM 3 Ms. Stone-Jones has noted, she was forthcoming
 03:52PM 4 when confronted about her involvement and what had
 03:52PM 5 happened there.

03:52PM 6 She does have a prior record that,
 03:52PM 7 candidly, is concerning for the Court. Of
 03:52PM 8 particular concern is the prior felony possession
 03:52PM 9 of a controlled substance for which the case was
 03:52PM 10 disposed in December of 2003. There were also
 03:52PM 11 several misdemeanor charges including at least
 03:52PM 12 four DWPs and one DUI.

03:52PM 13 There were also a couple of other
 03:52PM 14 felony matters that were dismissed. One in 2010
 03:52PM 15 that included six counts of forgery and one of
 03:52PM 16 grand theft, and one in 2011 that included a
 03:52PM 17 charge of grand theft by receiving stolen
 03:52PM 18 property.

03:53PM 19 And then we've also mentioned and
 03:53PM 20 discussed the pending controlled substance charge
 03:53PM 21 out of the state -- or out of Valley County, as
 03:53PM 22 well.

03:53PM 23 Ms. Stone-Jones, to some extent, has
 03:53PM 24 alluded to this in her statement to the Court
 03:53PM 25 about her upbringing, and Mr. Wollen, too. An

03:53PM 1 extremely troubling upbringing. Sexually molested
 03:53PM 2 by her adoptive father to the point that at one
 03:53PM 3 time she took matters into her own hands. And
 03:53PM 4 when her stepfather approached her, actually
 03:53PM 5 pointed a pistol at him and at that point he
 03:53PM 6 backed off in terms of that conduct, but then
 03:58PM 7 there were ongoing issues with physical and verbal
 03:53PM 8 abuse thereafter.

03:53PM 9 It has been indicated that
 03:53PM 10 Ms. Stone-Jones became aggressive and struggled
 03:53PM 11 with the issues raised there in her upbringing.
 03:53PM 12 She turned to drugs, alcohol, and fighting. In
 03:54PM 13 this situation, she married in 1985. Her husband
 03:54PM 14 was a biker. There were issues of abuse in that
 03:54PM 15 relationship, as well.

03:54PM 16 In this case, she was raped by another
 03:54PM 17 biker, and her husband's criminal record included
 03:54PM 18 a variety of charges including one of attempted
 03:54PM 19 murder.

03:54PM 20 She does have a son and a daughter, as
 03:54PM 21 has been alluded to. The son does have at least
 03:54PM 22 some criminal record that does include theft-
 03:54PM 23 related offences, as I understand it.

03:54PM 24 In this case, she has not held a steady
 03:54PM 25 job since 2008, although apparently she is a

03:54PM 1 certified nurse's assistant or a registered
 03:54PM 2 nurse's assistant, and did work for a time for the
 03:54PM 3 Idaho Nursing Home in -- at Grangeville, as I
 03:54PM 4 understand it.

03:54PM 5 As has been noted, she does have
 03:54PM 6 significant mental health issues, diagnosed with a
 03:55PM 7 brain lesion, and also diagnosis, according to
 03:55PM 8 her, that include manic depression, post-traumatic
 03:55PM 9 stress disorder, extreme anxiety, bipolar
 03:55PM 10 disorder, elevated panic attacks, and agoraphobia.

03:55PM 11 Actually, the Court noted that in the
 03:55PM 12 presentence materials, there was a report from an
 03:55PM 13 organization called the Riverfront -- Riverfront
 03:55PM 14 Community Center from May of 2010 where the
 03:55PM 15 diagnosis there included chronic post-traumatic
 03:55PM 16 stress disorder, panic disorder with agoraphobia,
 03:55PM 17 grief, early-onset dysthymia, polysubstance
 03:55PM 18 dependence, and also a closed head injury.

03:55PM 19 Nonetheless, Doctor Sombke had
 03:55PM 20 performed a psychological evaluation at the order
 03:55PM 21 of the Court, and his diagnosis was of amphetamine
 03:55PM 22 dependence, post-traumatic stress disorder and
 03:55PM 23 antisocial personality disorder. And in this
 03:55PM 24 case, I have found his diagnosis to be of some
 03:55PM 25 benefit in terms of my sentencing decision.

03:56PM 1 Among other things, Doctor Somkey noted
 03:56PM 2 an extensive history of drug abuse, something
 03:56PM 3 Ms. Stone-Jones has not denied. The physical and
 03:56PM 4 verbal abuse that she suffered at the hands of her
 03:56PM 5 husband. In this situation, also noted a
 03:56PM 6 functional impairment as a result of the
 03:56PM 7 antisocial personality disorder.

03:56PM 8 And in this situation, had also noted
 03:56PM 9 treatment was available in the past for her
 03:56PM 10 substance abuse issues but had -- she had not
 03:56PM 11 benefitted from them. And I think he is referring
 03:56PM 12 here, among other things, to the therapeutic
 03:56PM 13 community and some of the other programming that
 03:56PM 14 Ms. Stone-Jones had received.

03:56PM 15 Doctor Somkey concluded that
 03:56PM 16 Ms. Stone-Jones is a high risk to the public at
 03:56PM 17 large and a high risk to engage in future general
 03:57PM 18 violence. He describes her as impulsive and
 03:57PM 19 irresponsible, and concludes that she is most
 03:57PM 20 likely to continue in her violent, criminal, and
 03:57PM 21 substance abusing behavior especially without
 03:57PM 22 treatment.

03:57PM 23 He recommended treatment for the PTSD
 03:57PM 24 through psychotropic medication and psychological
 03:57PM 25 counseling; she completes substance abuse

03:57PM 1 treatment; that she complete a cognitive thinking
 03:57PM 2 program to deal with her antisocial personality
 03:57PM 3 disorder; and concluded that if she got treatment,
 03:57PM 4 and as recommended, that her risk to the community
 03:57PM 5 would be reduced.

03:57PM 6 In terms of Ms. Stone-Jones' substance
 03:57PM 7 abuse issues, the conclusions were the involvement
 03:57PM 8 with the numerous number of drugs, including
 03:57PM 9 methamphetamine, alcohol, marijuana, cocaine, and
 03:58PM 10 other hallucinogens. The GAIN-I assessment
 03:58PM 11 specifically diagnosed Ms. Stone-Jones with
 03:58PM 12 amphetamine dependence and alcohol abuse.

03:58PM 13 And in this situation, among other
 03:58PM 14 things, noted that she had attended Drug Court in
 03:58PM 15 Grangeville in 2002, though it was discharged and
 03:58PM 16 went to prison. As Ms. Longhurst has noted, she
 03:58PM 17 was paroled for a time and sent back to prison to
 03:58PM 18 complete her sentence.

03:58PM 19 She also attended therapeutic community
 03:58PM 20 at the South Boise Women's Correctional Center and
 03:58PM 21 did obtain some follow-up treatment while on
 03:58PM 22 parole in Grangeville, as well.

03:58PM 23 One thing I did note, and I think to
 03:58PM 24 some extent this perhaps explains Mr. Wollen's
 03:58PM 25 confusion by the comments in the presentence

03:58PM 1 investigation, at pages 22 and 23 in the
03:58PM 2 investigator's comments and analysis. The
03:58PM 3 presentence investigator noted at page 22 that
03:58PM 4 "Concerning the mental health and substance abuse
03:58PM 5 issues it appears," and I am quoting here, "that
03:58PM 6 her needs could be met in the community with
03:58PM 7 intensive treatment."

03:58PM 8 My take on that comment is that that
03:58PM 9 was based upon the comments contained in the
03:58PM 10 evaluations themselves and that that was the
03:58PM 11 conclusion that the evaluators had made as to the
03:58PM 12 availability or possibility of community treatment
03:58PM 13 if obtained.

03:58PM 14 I do believe and find that to be, in
03:58PM 15 fact, the recommendation of the presentence
03:58PM 16 investigator that the presentence investigator,
03:58PM 17 and specifically at page 23, and, again, I'm
03:58PM 18 quoting now, "Based on the level of assessed need
03:58PM 19 and risk and other protective factors, and as
03:58PM 20 discussed above, that Ms. Stone-Jones would
03:58PM 21 benefit from participation in rehabilitation
03:58PM 22 programs and/or prosocial activities during a
04:00PM 23 period of penal incarceration to address her
04:00PM 24 current attitudes orientation and behaviors.

04:00PM 25 "This may also assist her in gaining

04:00PM 1 the insight she is searching for and possibly help
04:00PM 2 her" -- I'm changing that now. That was a typo
04:00PM 3 there. She referred to Ms. Stone-Jones as a him,
04:00PM 4 not a her.

04:00PM 5 And, in fact, Counsel, if you don't
04:00PM 6 object, I'm going to change that by
04:00PM 7 interlineation, as well.

04:00PM 8 MS. LONGHURST: No objection.

04:00PM 9 MR. WOLLEN: No objection.

04:00PM 10 THE COURT: I'll go ahead and make that
04:00PM 11 change.

04:00PM 12 -- "to obtain the skills to begin
04:00PM 13 living a crime-free life in the future."

04:00PM 14 So the Court concludes that, in fact,
04:00PM 15 what the presentence investigator was saying is
04:00PM 16 that Ms. Stone-Jones indeed would benefit from a
04:00PM 17 period of incarceration in the penitentiary with
04:00PM 18 treatment, and that, in fact, it did not appear
04:00PM 19 the presentence investigator, given all the
04:00PM 20 factors that I have mentioned and that were
04:00PM 21 mentioned in the presentence report, that
04:00PM 22 probation or treatment in the community would be
04:00PM 23 the appropriate option.

04:00PM 24 The Court in imposing sentence is
04:01PM 25 always guided by the Toohill factors. Its primary

04:01PM 1 consideration is and must be protecting society.
04:01PM 2 If I do nothing else, I must ensure that society
04:01PM 3 is protected in the sentence that I impose.

04:01PM 4 There are other considerations for the
04:01PM 5 Court that include punishment, deterrence, both
04:01PM 6 general and specific, and rehabilitation.
04:01PM 7 Candidly, this is one of those cases where I think
04:01PM 8 all of those considerations play a part in my
04:01PM 9 sentencing decision.

04:01PM 10 In this situation, I think
04:01PM 11 rehabilitation is a factor. However, the Court is
04:01PM 12 concerned by the fact that Ms. Stone-Jones has had
04:01PM 13 the benefit of numerous treatment opportunities in
04:01PM 14 the community and has still not been able to
04:01PM 15 conform her conduct to what would be expected of
04:01PM 16 her. Although, for a time she was able to do so
04:01PM 17 in the state of Montana.

04:01PM 18 In this situation, again, I am troubled
04:01PM 19 by the conclusions by Doctor Somkey in his
04:02PM 20 psychological evaluation of the high risk of -- to
04:02PM 21 the public at large and to engage in future
04:02PM 22 general violence. In fact, Ms. Stone-Jones does
04:02PM 23 not receive the treatment that she so obviously
04:02PM 24 needs. And, therefore, the Court feels that
04:02PM 25 protection of society, indeed, is a significant

04:02PM 1 consideration, as well.

04:02PM 2 Given her prior record, the nature of
04:02PM 3 this offense, and the other information available,
04:02PM 4 certainly punishment is a consideration, and as is
04:02PM 5 deterrence, both general to individuals in general
04:02PM 6 and specifically to Ms. Stone-Jones herself.

04:02PM 7 While the Court in this case
04:02PM 8 appreciates the recommendation from the defense
04:02PM 9 that probation be a consideration, the Court does
04:02PM 10 not feel based upon the information available to
04:02PM 11 it that probation is a viable option in this case.
04:02PM 12 And for that reason, also does not feel that this
04:02PM 13 is an appropriate case for a period of retained
04:02PM 14 jurisdiction.

04:02PM 15 Therefore, the Court in this case is
04:03PM 16 going to enter a judgment of conviction as to the
04:03PM 17 charge of possession of a controlled substance
04:03PM 18 with the intent to deliver. Considering the drug
04:03PM 19 enhancement and the maximum sentence available to
04:03PM 20 me, nonetheless, I am not going to, in this case,
04:03PM 21 impose a life term. I do not believe that would
04:03PM 22 be appropriate.

04:03PM 23 I do, though, feel that a significant
04:03PM 24 term would be appropriate with a reasonable period
04:03PM 25 of fixed time to allow Ms. Stone-Jones the

04:03PM 1 opportunity at rehabilitation while in a custodial
04:03PM 2 setting as recommended. And also to give her a
04:03PM 3 realistic opportunity for release into the
04:03PM 4 community at some time in the future.

04:03PM 5 Therefore, a judgment of conviction
04:03PM 6 will enter. I will sentence Ms. Stone-Jones to
04:03PM 7 the custody of the Board of Correction for a term
04:03PM 8 of 25 years. The first three years of that
04:03PM 9 sentence will be fixed followed by 22 years
04:03PM 10 indeterminate.

04:03PM 11 By my calculations, Ms. Stone-Jones,
04:03PM 12 you have, indeed, been in custody for over,
04:03PM 13 actually, 15 months. I show a total of 459 days
04:04PM 14 that you have been in custody at one time or
04:04PM 15 another in this case. And I am going to give you
04:04PM 16 credit for that time toward the fixed portion of
04:04PM 17 your sentence.

04:04PM 18 I'm also, in this case, going to order
04:04PM 19 restitution as requested, there being no objection
04:04PM 20 from the defense. And the defense, in fact,
04:04PM 21 having stipulating to it in the amount of
04:04PM 22 \$1,464.46, and the Court will enter a civil
04:04PM 23 judgment of restitution at this time accordingly.

04:04PM 24 I am going to recommend to the Board of
04:04PM 25 Corrections, Ms. Stone-Jones, that you do be

04:04PM 1 considered for any and all forms of therapeutic
04:04PM 2 counseling that may be available to you while in
04:04PM 3 their custody.

04:04PM 4 Since you have already had the benefit
04:04PM 5 of the therapeutic community, I'm not going to
04:04PM 6 specifically recommend that program, but I will
04:04PM 7 leave it to the Board of Corrections as to which
04:05PM 8 form of counseling may or may not be the most
04:05PM 9 appropriate for you. I know you have indicated
04:05PM 10 that you believe it would be in the form of an
04:05PM 11 individual counseling program as opposed to a
04:05PM 12 general or generic one.

04:05PM 13 In this situation, I am not going to
04:05PM 14 impose any fine. And although candidly, I believe
04:05PM 15 that you have received a real benefit from the
04:05PM 16 representation of the public defender in this
04:05PM 17 case, I am also not going to order any public
04:05PM 18 defender reimbursement in light of the
04:05PM 19 penitentiary sentence that I have imposed in this
04:05PM 20 case today.

04:05PM 21 I do need to advise you, ma'am, that
04:05PM 22 you do have the right to appeal this decision of
04:05PM 23 the Court. The appeal has to be filed within
04:05PM 24 42 days from the date the judgment enters. If you
04:05PM 25 are a needy person and cannot afford it, the cost

04:05PM 1 of the appeal could be borne at state expense, as
04:05PM 2 well.

04:05PM 3 In this case, ma'am, again, I felt that
04:05PM 4 the penitentiary sentence, given the information
04:05PM 5 available to me, was the most appropriate course
04:05PM 6 and I have followed that. I have given you, with
04:05PM 7 the fixed portion I have imposed in this case, an
04:05PM 8 opportunity to demonstrate an amenability to
04:05PM 9 release back into the community after a certain
04:05PM 10 fixed period of time.

04:05PM 11 However, I have also imposed a
04:05PM 12 significant indeterminate sentence in this case.
04:05PM 13 And if, in fact, you are unable to demonstrate an
04:05PM 14 amenability to release back into the community,
04:05PM 15 you will be in custody for a very long time.

04:05PM 16 Regardless, ma'am, I hope you are able
04:05PM 17 to take advantage of the treatment and other
04:05PM 18 programming available to you. And if you are, and
04:05PM 19 if at some point you do, in fact, get released
04:05PM 20 back into the community, I will go ahead and
04:05PM 21 hopefully not see you back in court again. Thank
04:05PM 22 you.

04:05PM 23 THE DEFENDANT: Thank you.

04:05PM 24 MR. WOLLEN: May we maintain the PSI, Your
04:05PM 25 Honor?

04:05PM 1 THE COURT: Certainly.

04:05PM 2
04:05PM 3 (End of requested proceedings.)